

**32B-1-606 Special procedure for flavored malt beverages.**

- (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a label or packaging used for a nonalcoholic beverage, a manufacturer of the flavored malt beverage may not distribute or sell the flavored malt beverage in this state until the day on which the manufacturer receives approval of the labeling and packaging from the department in accordance with:
  - (a) Sections 32B-1-604 and 32B-1-605; and
  - (b) this section.
- (2) The department may not approve the labeling and packaging of a flavored malt beverage described in Subsection (1) unless in addition to the requirements of Section 32B-1-604 the labeling and packaging complies with the following:
  - (a) The label on the flavored malt beverage shall bear a prominently displayed label or a firmly affixed sticker that provides the following information:
    - (i) the statement:
      - (A) "alcoholic beverage"; or
      - (B) "contains alcohol"; and
    - (ii) the alcohol content of the flavored malt beverage.
  - (b) Packaging of a flavored malt beverage shall prominently include, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the statement:
    - (i) "alcoholic beverage"; or
    - (ii) "contains alcohol".
  - (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required by rule made by the commission.
  - (d) A statement of alcohol content required by Subsection (2)(a)(ii):
    - (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;
    - (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume," or "weight"; and
    - (iii) shall be in a format required by rule made by the commission.
- (3) The department may reject a label or packaging that appears designed to obscure the information required by Subsection (2).
- (4) To determine whether a flavored malt beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:
  - (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:
    - (i) is similar to those of a nonalcoholic beverage or product; or
    - (ii) can be confused with a nonalcoholic beverage;
  - (b) whether the flavored malt beverage possesses a character and flavor distinctive from a traditional malted beverage;
  - (c) whether the flavored malt beverage:
    - (i) is prepackaged;
    - (ii) contains high levels of caffeine and other additives; and
    - (iii) is marketed as a beverage that is specifically designed to provide energy;
  - (d) whether the flavored malt beverage contains added sweetener or sugar substitutes; or
  - (e) whether the flavored malt beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Enacted by Chapter 276, 2010 General Session